

Decision No. 10981

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of G. LAWRENCE RITCHIE and PICKWICK STAGES, INC., a corporation, for the transfer of an automobile stage franchise between Santa Ysabel and Warner's Hot Springs, San Diego County, California, and for the issuance of a certificate of public convenience and necessity for the operation of the same by said Pickwick Stages, Inc., a corporation.

Application No. 7946.

Warren E. Libby for Applicants.
K. F. Beyerle for Murrieta Mineral Hot Springs Stage Line.

BY THE COMMISSION.

O P I N I O N

A public hearing was held by Examiner Westover at Ocean-side upon the above entitled application for authority to transfer the right to operate an automobile stage line between Santa Ysabel and Warner's Hot Springs, both in San Diego County, and for certificate that public convenience and necessity require such service.

Murrieta Mineral Hot Springs Stage Line protests the proposed transfer because Pickwick Stages, Inc., proposes to operate this line, separately acquired, in connection with and as a part of its present line between San Diego and Santa Ysabel. There is no merit in the protest. The body of the application itself expressly requests authority to extend the Pickwick's present line and to operate to and from the Springs in connection with it. This is not a case of a carrier acquiring two local lines and later operating a through service over them, without authority.

It appears, however, from the testimony that Pickwick Stages, Inc., has long been operating between Santa Ysabel and Warner's Hot Springs, the service being started about May 26, 1920, under written permission given to it by C. E. Means, who acquired the right for such operation as part of the operative right to transport freight and passengers between San Diego and Warner's Hot Springs, granted in Decision No. 7607 of May 24, 1920, upon Application No. 5240. As the Commission's records show that copy of the decision was mailed May 25th from San Francisco, addressed to Mr. Means at Warner's Springs, it is evident that his written permission was given immediately upon receipt of the decision, and suggests that permission was given pursuant to previous arrangement between the parties; and it further suggests that there must have been some reason why Pickwick Stages, Inc., did not seek the authority at or before the hearing held two weeks earlier. The decision referred to protected the operative rights of the Pickwick line by providing that neither freight nor passengers might be transported over the portion of the route between Santa Ysabel and San Diego, over which the Pickwick line had operative rights. It recites that the stipulation of applicant Means that he would not carry freight or passengers between Santa Ysabel and San Diego eliminated the protest of Pickwick Stages.

By Decision No. 10321 of April 14, 1922, upon Application No. 6725, the rights of C. E. Means were authorized to be transferred to applicant Ritchie. The present application is for authority to transfer that portion of the right relating to passenger service only and over only that part of the route lying between Warner's Hot Springs and Santa Ysabel.

It further appears from the testimony that the Pickwick line has been transporting passengers to and from the Warner

Damsite, which is some 4 to 6 miles to the west of its regular route between Santa Ysabel and Warner's Hot Springs, the junction point, with its route being about midway between these two points. It admittedly had never received authority to operate to the Damsite, does not show it in time schedules or tariffs, but sells tickets to Warner's Hot Springs, upon which it delivers passengers to the Damsite, some 12 to 14 miles away. It further appears from the testimony that this company has consistently violated the Commission's operating rules in that it hires cars and drivers upon a percentage basis rather than upon a flat rental. There was testimony from the management to the effect that the car used between San Diego and Warner's Hot Springs is on a flat rental of from \$16.00 to \$18.00 per day, depending upon the condition of the roads, but we are satisfied from the testimony of the owner of the car that he, in fact, receives 85% of ticket sales with a guarantee of \$16.00 per day rental and that his compensation has averaged recently \$18.00 per day; this view being strengthened by the fact that we have been advised since the hearing that applicant Pickwick Stages, Inc., is unable to find the lease contract in question, which it was required by Examiner Westover to file as applicant's Exhibit No. 2. It is apparent that Pickwick Stages, Inc., acquired no rights under the permission from Mr. Means and that its operation thereunder has been illegal, that its operation to and from the Damsite is illegal, and that it has consistently violated the Commission's operating rules in hiring cars and drivers upon a percentage basis and that the application could properly be denied upon either of these grounds. No justification is shown for seeking to transfer only a portion of the right to carry passengers and segregating it from the original right to carry passengers and freight between San Diego and Warner's Hot Springs.

It appears that applicant Ritchie has never operated the passenger service over the route in question. As his right

to do so has been abandoned, he has no passenger rights to convey.

There is at present authorized passenger service to and from the Damsite by Murrieta Mineral Hot Springs Stage Line in connection with its service between Los Angeles and Warner Hot Springs, via Temecula, and Escondido-Palomar Stages, via Escondido.

ORDER

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision,

IT IS HEREBY ORDERED that the above entitled application be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that the Pickwick Stages, Inc., be and it is hereby ordered to forthwith cease operating passenger service between Santa Ysabel and Warner Hot Springs and to and from the so-called Warner Damsite.

Dated at San Francisco, California, this 14th day of September, 1922.

H. W. Brundage
William Martin
David H. Lawrence
J. F. Brundage
Commissioners.